



Department of Public Advocacy
Kentucky's statewide public defense system

Criminal justice policy issues and State of KY's public defense

Ed Monahan
Kentucky Public Advocate
November 4, 2016

Right to Counsel

“Of all the rights that an accused person has, the right to be represented by counsel is by far the most pervasive for it affects his ability to assert any other rights he may have.”

-*U.S. v. Cronin*, 466 U.S. 648, 654 (1984)

6th Amendment

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; . . .

Appreciation



for your
program and financial support

Public Policy

- DPA continues its energetic work for common sense, evidence-based criminal justice reform

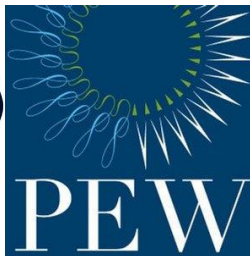
Public Policy

- DPA continues its energetic work for common sense, evidence-based criminal justice reform



“Draconian punishments for minor infractions, an ever-expanding prisoner population and a legal regime that allows authorities to seize property without a warrant are all slowly eroding the freedoms that the nation has come to expect. For years, lawmakers have focused almost exclusively on being ‘tough on crime,’ all the while forgetting to get ‘smart on crime.’”

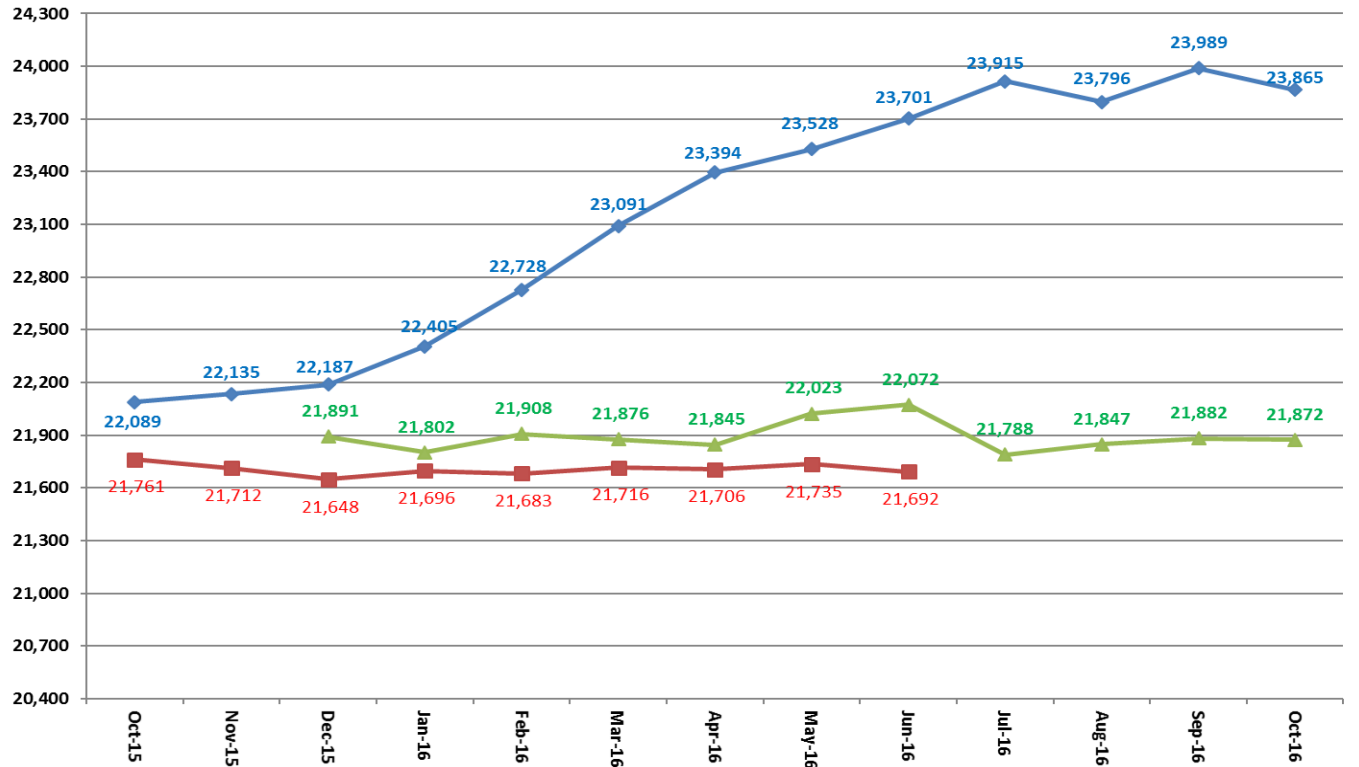
Grover Norquist
May 11, 2015



Realigning incarceration costs in a safe, sustainable way towards treatment and re-entry support must include

1. Reducing admissions, including revocations to prison from probation and parole, and
2. Reducing length of stay including the length of stay for those convicted of serious and violent crimes

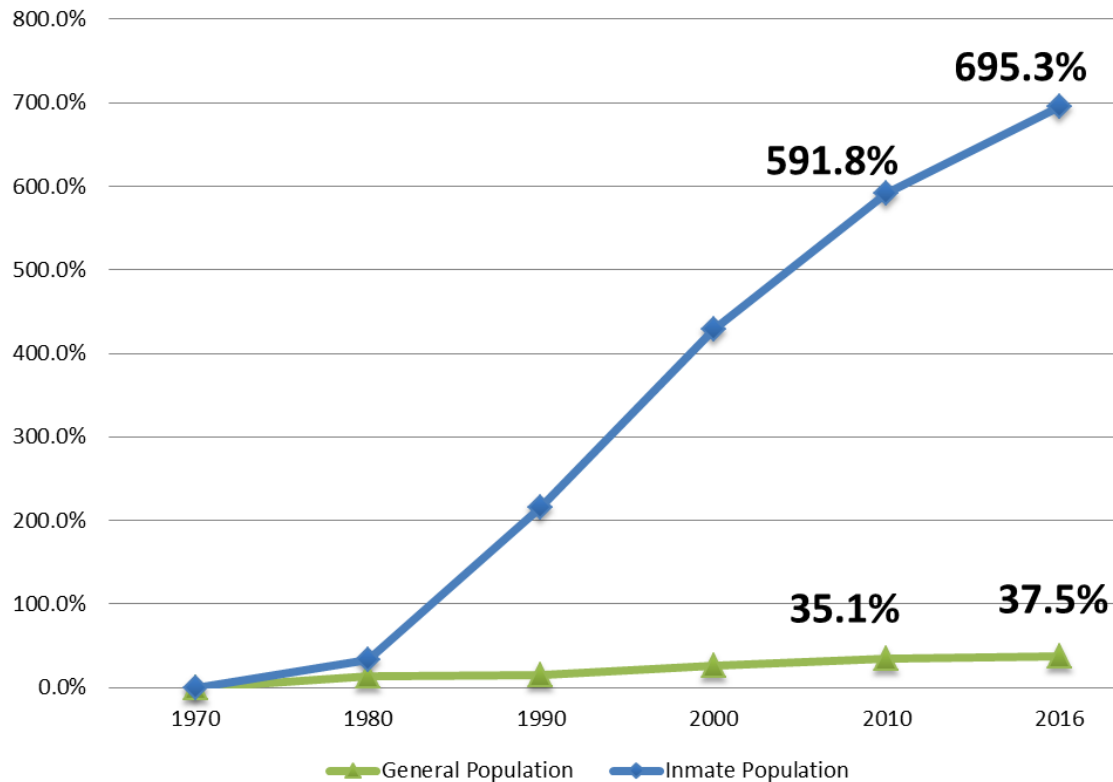
Inmate Population between October 15, 2015 to October 15, 2016



The 2014-16 biennial budget consensus blended population projections are used for July 2014 – forward.
FY16-18 consensus blended population (adjusted for HB463 enacted) projections are included for December 2015 forward.

Kentucky Inmate Population vs General Population

(Trend since 1970)



What are the trends?

From 1985- 2015

- Crime rate in KY declined by 19%
- Violent crime rate in KY declined by 28%

From 1985- 2014

- US imprisonment rate increased 133%, more than doubling
- KY imprisonment rate increased 371%, nearly quadrupling

Policy ideas to achieve better outcomes

- Realign existing correctional resources towards scientifically-informed treatment
- Lower crimes and penalties
- Incentivize release of low and moderate risk persons
- Increase re-entry support
- Reform penal code
- Find a way to have a financially unified statewide correctional system
- Increase theft levels
- Modify PFO's reach

Earned Parole

Class D inmates would earn parole and be released without a hearing if all the following are met:

- Service of time to reach parole eligibility
- No institutional infractions involving violence
- Risk Assessment Score of Level I or II
- Not convicted of sex crime

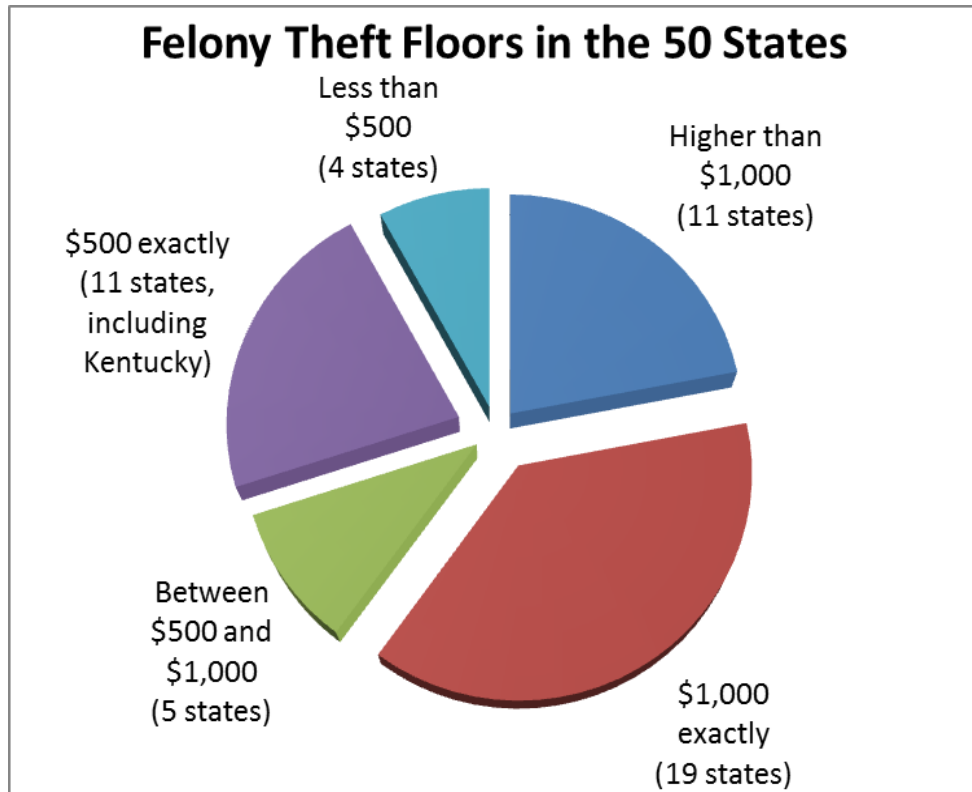
Gross Misdemeanor

More serious than Class A Misdemeanor, not a felony

Characteristics:

- Sentence up to 24 months
- Presumptive probation
- Supervision up to 36 months
- Under Department of Corrections
- Expungeable
- Extraditable

Increase felony theft threshold



Consistent pretrial release and application of bail credit

A court decision denying the release of a low-risk or moderate risk defendant or denying bail credit would be upheld if it is supported by ***clear and convincing evidence*** that the defendant is a risk of flight or a danger to others

Modify mandatory minimum persistent felony offenses

- Exempt Class D Felonies
- A single class of PFO
- Two prior separate felony convictions
- Prior felony incarceration
- Eliminate 10-year mandatory minimum
- Give jury the discretion to decline PFO

[illegible]



ANNUAL LITIGATION REPORT FISCAL YEAR 2016

COMMONWEALTH OF KENTUCKY
DEPARTMENT OF PUBLIC ADVOCACY

EDWARD C. MONAHAN, PUBLIC ADVOCATE



SEPTEMBER 2016
Printed with donated funds

ROI HIGH

- **\$267 funding per new trial case**
157,853 new trial cases, up 2.9%

ROI HIGH

- **\$267 funding per new trial case**

157,853 new trial cases, up 2.9%

- **\$327 funding per conflict case**

155 private attorneys doing conflicts

ROI HIGH

- **\$267 funding per new trial case**
157,853 new trial cases, up 2.9%
- **\$327 funding per conflict case**
155 private attorneys doing conflicts
- **\$5.66 return for every \$1 invested in Alternative Sentencing Worker program**
2,215 plans presented, 1,400 accepted

ROI HIGH

- **\$267 funding per new trial case**
157,853 new trial cases, up 2.9%
- **\$327 funding per conflict case**
155 private attorneys doing conflicts
- **\$5.66 return for every \$1 invested in Alternative Sentencing Worker program**
2,215 plans presented, 1,400 accepted

ROI on issues of liberty and life

- **Process** due individuals to determine whether someone's liberty, life should be taken by state
- **Accuracy:** at trial, appeal, post-conviction
- **Efficiency:** at county and state levels
- **Satisfaction:** judge, prosecutor, client, victim
- **Confidence:** public

We need more of your help

- Reduce workloads
- Increase compensation to private attorneys doing conflict representation
- Increase salaries of defender staff: *it costs more to pay less*
- Go to 57 trial offices



**Allow DPA
Attorneys to have
necessary tools
when visiting
clients**



Workhorse

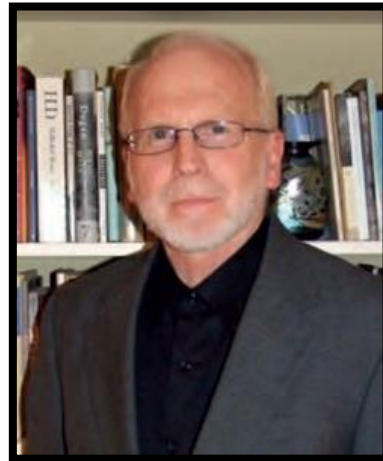
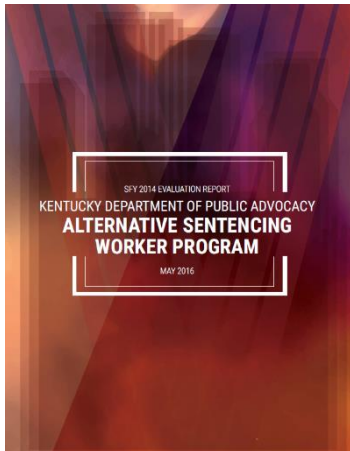
460



Turnover is very costly




**For every dollar spent on the DPA
alternative sentencing program, savings of
\$5.66**



Robert Walker, M.S.W., L.C.S.W.

Robert Walker, M.S.W., L.C.S.W., University of Kentucky Center on Drug and Alcohol Research, SFY 2014 EVALUATION REPORT KENTUCKY DEPARTMENT OF PUBLIC ADVOCACY ALTERNATIVE SENTENCING WORKER PROGRAM (MAY 2016)

Value of an Effective Public Defender System

- Dockets  more efficient
- Plea offers  more fair and consistent
- Trial Verdicts  more reliable
- Resolutions  more timely for victims
- Clients  more upholding of rights
- Public  more confidence
- Communities  more safety